



**MINUTES
FREMONT PLANNING COMMISSION
REGULAR MEETING OF APRIL 8, 2004**

CALL TO ORDER: Vice Chairperson Wieckowski called the meeting to order at 7:00 p.m.

PRESENT: Commissioners Harrison, King, Lydon, Natarajan,
Sharma (arrived 7:07 p.m.)

ABSENT: Chairperson Weaver

STAFF PRESENT: William Meeker, Planning Director
Jeff Schwob, Deputy Planning Director
Larissa Seto, Senior Deputy City Attorney II
Kathleen Livermore, Senior Planner
Ruby Wun, Planner I
Kelly Morariu, Management Analyst
Alice Malotte, Recording Clerk
Chavez Company, Remote Stenocaptioning
Walter Garcia, Video Technician

APPROVAL OF MINUTES: Regular Minutes of March 11, 2004, were approved as submitted.

CONSENT CALENDAR

THE CONSENT LIST CONSISTED OF ITEM NUMBERS 1, 2, 3, 4, AND 5.

IT WAS MOVED (HARRISON/LYDON) AND UNANIMOUSLY CARRIED BY ALL PRESENT THAT THE PLANNING COMMISSION TAKE THE FOLLOWING ACTIONS ON ITEM NUMBERS 1, 2, 3, 4, AND 5.

Item 1. BACCARAT RAILROAD LLC – 41075 Railroad Avenue – (PLN2000-00059) – to consider an appeal regarding the completeness of an application for a Preliminary Grading Plan and an Initial Study and to consider a Preliminary Grading Plan for a 15-acre site zoned I-L Light Industrial located in the Irvington Planning Area. (Continued from January 22 and February 26, 2004.)

CONTINUE TO MAY 13, 2004 OR THE NEXT REGULARLY SCHEDULED MEETING THEREAFTER SHOULD THE MAY 13TH MEETING BE CANCELED.

Item 2. TRACT 7422 – 1724 Peralta Boulevard – (PLN2003-00148) – to consider a Vesting Tentative Tract Map and Preliminary Grading Plan for the creation of six residential lots. The property under consideration is located at 1724 Peralta Boulevard in the Centerville Planning Area and the proposed site is approximately 1.40 acres. Currently, the site is vacant and the current access to the proposed development will be from Peralta Boulevard. A Mitigated Negative Declaration has been prepared for this project.

HOLD PUBLIC HEARING;

AND

FIND THE INITIAL STUDY CONDUCTED FOR THE PROJECT HAS EVALUATED THE POTENTIAL IMPACTS THAT COULD CAUSE AN ADVERSE EFFECT, EITHER INDIVIDUALLY OR CUMULATIVELY, ON WILDLIFE RESOURCES. THEREFORE, FIND THAT THERE IS NO EVIDENCE THE PROJECT WOULD HAVE ANY POTENTIAL FOR ADVERSE EFFECT ON WILDLIFE RESOURCES AND RECOMMEND THE FILING OF A CERTIFICATE OF FEE EXEMPTION FOR THE PROJECT;

AND

ADOPT THE DRAFT MITIGATED NEGATIVE DECLARATION FOR THE PROJECT FINDING THAT THERE IS NO SUBSTANTIAL EVIDENCE THAT THE PROJECT, AS MITIGATED WILL HAVE A SIGNIFICANT EFFECT ON THE ENVIRONMENT AND FURTHER FINDING THAT THIS ACTION REFLECTS THE INDEPENDENT JUDGMENT OF THE CITY OF FREMONT;

AND

FIND THAT THE PROPOSED PROJECT (PLN2003-00148) IS IN CONFORMANCE WITH THE RELEVANT PROVISIONS CONTAINED IN THE CITY'S GENERAL PLAN. THESE PROVISIONS INCLUDE THE DESIGNATIONS, GOALS AND POLICIES SET FORTH IN THE GENERAL PLAN'S LAND USE AND HOUSING CHAPTERS AS ENUMERATED WITHIN THE STAFF REPORT;

AND

FIND PLN2003-00148, AS PER EXHIBIT "A" (VESTING TENTATIVE TRACT MAP 7422), AND EXHIBIT "C" (PRELIMINARY GRADING PLAN) FULFILLS THE APPLICABLE REQUIREMENTS SET FORTH IN THE FREMONT MUNICIPAL CODE (PLANNING AND ZONING ORDINANCE);

AND

APPROVE VESTING TENTATIVE TRACT MAP TR 7422 (AS SHOWN IN EXHIBIT "A" AND SUBJECT TO FINDINGS AND CONDITIONS IN EXHIBIT "B"), AND APPROVE PRELIMINARY GRADING PLAN (AS SHOWN IN EXHIBIT "C" AND SUBJECT TO FINDINGS AND CONDITIONS IN EXHIBIT "D").

- Item 3. CIVIC CENTER DRIVE - 39700 Civic Center Drive - (PLN2004-00022) - to consider a summary vacation (abandonment) of a street right of way for a portion of Civic Center Drive leading to the Civic Center knoll located in the Central Planning Area. A Negative Declaration (PLN2003-00208) was previously adopted, which includes the subject lands.**

HOLD PUBLIC HEARING;

AND

RECOMMEND THAT THE CITY COUNCIL FIND THAT THE SUMMARY VACATION OF CIVIC CENTER DRIVE CONFORMS TO THE GENERAL PLAN BECAUSE THE PORTION OF ROADWAY PROPOSED TO BE VACATED IS NOT NOW, NOR WILL IT BE IN THE FUTURE, REQUIRED FOR PUBLIC STREET PURPOSES;

AND

RECOMMEND THAT THE CITY COUNCIL FIND PLN2004-00022, AS PER EXHIBIT "A," FULFILLS THE APPLICABLE REQUIREMENTS SET FORTH IN THE FREMONT MUNICIPAL CODE AND SECTION 8334 OF THE CALIFORNIA STREETS AND HIGHWAYS CODE.

- Item 4. DUONG SUNROOMS – 3402 Malibu Terrace – (PLN2004-00160) - to consider a Planned District Minor Amendment for the addition of a 210-square foot patio enclosure and a 279-square foot patio enclosure for an existing 3,831-square foot detached single-family dwelling on 0.6 acres located in the Warm Springs Planning Area. A Categorical Exemption has been proposed for this project.**

HOLD PUBLIC HEARING;

AND

FIND THE INITIAL STUDY CONDUCTED FOR THE PROJECT HAS EVALUATED THE POTENTIAL IMPACTS THAT COULD CAUSE AN ADVERSE EFFECT, EITHER INDIVIDUALLY OR CUMULATIVELY, ON WILDLIFE RESOURCES, AND THAT THERE IS NO EVIDENCE THE PROJECT WOULD HAVE ANY POTENTIAL FOR ADVERSE EFFECT THEREON, AND RECOMMEND THE FILING OF A CERTIFICATE OF FEE EXEMPTION FOR THE PROJECT;

AND

FIND THAT THE PROPOSED PROJECT IS IN CONFORMANCE WITH THE RELEVANT PROVISIONS CONTAINED IN THE CITY'S GENERAL PLAN. THESE PROVISIONS INCLUDE THE DESIGNATIONS, GOALS AND POLICIES SET FORTH IN THE GENERAL PLAN'S HOUSING, LAND USE AND OPEN SPACE CHAPTERS AS ENUMERATED WITHIN THE "GENERAL PLAN CONFORMANCE" SECTION OF THE STAFF REPORT. THE PROJECT CONFORMS TO THE GOALS AND POLICIES AS ENUMERATED IN THE STAFF REPORT;

AND

FIND THAT THE PUBLIC NECESSITY, CONVENIENCE AND GENERAL WELFARE REQUIRE THE APPROVAL OF THE PROPOSED PLANNED DISTRICT MINOR AMENDMENT;

AND

APPROVE PLN2004-00160, AS SHOWN ON EXHIBIT "A", SUBJECT TO CONDITIONS IN EXHIBIT "B".

- Item 5. MISSION VILLAS – 533 through 687 Washington Boulevard – (PLN2004-00192) - to consider a Vesting Tentative Tract Map 7465, a Private Street and a Preliminary Grading Plan for 18 single-family and 54 multi-family residences on 5.7 acres located in the Mission San Jose Planning Area. A Mitigated Negative Declaration has been adopted as part of the General Plan Amendment approved under PLN2002-00321.

HOLD PUBLIC HEARING;

AND

FIND THE PREVIOUS INITIAL STUDY HAS EVALUATED THE POTENTIAL FOR THIS PROJECT TO CAUSE AN ADVERSE EFFECT -- EITHER INDIVIDUALLY OR CUMULATIVELY -- ON WILDLIFE RESOURCES, AND NO NEW IMPACTS HAVE BEEN IDENTIFIED. THIS PROJECT DOES NOT REPRESENT ANY NEW IMPACTS NOT ADDRESSED IN THE INITIAL STUDY AND NEGATIVE DECLARATION ADOPTED IN APRIL, 2003. THERE IS NO EVIDENCE THE PROPOSED PROJECT WOULD HAVE ANY POTENTIAL FOR ADVERSE EFFECT ON WILDLIFE RESOURCES;

AND

FIND PLN2004-00192 IS IN CONFORMANCE WITH THE RELEVANT PROVISIONS CONTAINED IN THE CITY'S EXISTING GENERAL PLAN. THESE PROVISIONS INCLUDE THE DESIGNATIONS, GOALS AND POLICIES SET FORTH IN THE GENERAL PLAN'S LAND USE AND HOUSING CHAPTERS AS ENUMERATED WITHIN THIS STAFF REPORT AND THE PLANNING COMMISSION STAFF REPORT DATED JANUARY 22, 2004;

AND

APPROVE PLN2004-00192, AS SHOWN ON EXHIBIT "A" (VESTING TENTATIVE TRACT MAP 7465 AND PRIVATE STREET), SUBJECT TO FINDINGS AND CONDITIONS IN EXHIBITS "B" AND "C" AND APPROVE EXHIBIT "D" (PRELIMINARY GRADING PLAN), SUBJECT TO FINDINGS AND CONDITIONS OF APPROVAL OF EXHIBIT "E."

The motion carried by the following vote:

AYES:	5 – Harrison, King, Lydon, Natarajan, Wieckowski
NOES:	0
ABSTAIN:	0
ABSENT:	1 – Sharma, Weaver
RECUSE:	0

PUBLIC COMMUNICATIONS

ORAL COMMUNICATIONS

PUBLIC HEARING ITEMS

- Item 6. MIXED USED DEVELOPMENT CRITERIA – Citywide – (PLN2004-00002)** – to consider a Zoning Text Amendment to establish criteria for mixed-use development in accordance with Program No. 15 of the City of Fremont's Housing Element. Program No. 15 states that the City is to review its existing policies for mixed-use developments and amend the requirements to encourage housing, especially affordable housing. To implement Program No. 15, the following changes are being proposed: (1) inclusion of mixed-use development review under a three pronged approach (i.e., Zoning Administrator, Planning Commission or City Council, depending on the complexity of a proposed project) in the C-O Administrative Office District, C-N Neighborhood Commercial District, C-C Community Commercial District, C-B-D Central Business District, and C-T Thoroughfare Commercial District; (2) inclusion of more easily identifiable principles and standards for mixed-use developments as a whole; and, (3) revisions to existing standards and criteria for mixed-use developments with respect to parking and planned districts. A Negative Declaration has been prepared for the project.

Deputy Planning Director Schwob stated that the mixed use ordinance was proposed for the following reasons, among others: 1) the General Plan Housing Element, which required 51 percent commercial requirement and the planned district process requirement, 2) The Land Use Element, which did not allow mixed use on the fringe of the C-B-D and C-C areas. Redevelopment, Engineering and other City divisions, along with the development community were involved. It was determined that enough flexibility needed to be built into future mixed use projects to allow conversion of the commercial space from one use to another. With mixed use, the requirements of each use, i.e., parking, open space, did not need to be met, because they could, in many cases, be shared. In most of the zoning districts, the Floor Area Ratio (FAR) was doubled and could be more than doubled in the C-C and the C-B-D or higher when the circumstances warranted. The quality, rather than the quantity, of open space would be reviewed and a sign program would address the specific project. Mixed use would not be appropriate along, essentially, Mission Boulevard between I-880 and I-680 and along Auto Mall Parkway, because those sites should be preserved for regionally oriented retail opportunities in the future.

Commissioner Harrison asked for clarification of the reason for not allowing mixed use in those areas and if anything would change for the current uses in those areas.

Deputy Planning Director Schwob replied that those sites were visible to traveling motorists and the public, in general, and would accommodate regional retail businesses best. No uses would change, except future housing would not be allowed.

Vice-Chairperson Wieckowski opened and closed the public hearing.

Commissioner Lydon asked for a clarification of the location of the area that would not allow mixed use.

Deputy Planning Director Schwob answered that Mission Boulevard was 238 from the Sunol Grade on I-680 north to Hayward.

Commissioner Sharma asked why a corner of a regional shopping center could not accommodate residential mixed use, for example, a small retail business on the first floor with residential on the floor above.

Deputy Planning Director Schwob stated that, in general, the small, retail stores were not a part of large, regional retail areas. The larger buildings, such as Home Depot or Fry's, were typical and did not provide housing in the same building. These locations were also high volume, high traffic areas, which were not the best locations for housing.

Commissioner Sharma reiterated that with higher housing density to be allowed in the future, he questioned why not allow it over the smaller retail outlets that were usually included in large, retail projects.

Deputy Planning Director Schwob replied that the Commission could recommend his suggestion. However, the Economic Development Department strongly felt that some sites should be preserved for only retail. If mixed-use residential development was allowed in these areas, it could preclude retail opportunities at that location in the future.

Commissioner Natarajan asked if a set of design guidelines would follow this amendment and if street and sidewalk details, etc., had been changed.

Deputy Planning Director Schwob agreed that design elements would follow in a more comprehensive manner. Many other programs had to be implemented before going before the State in the fall. All of these would be reviewed by the Planning Commission during upcoming meetings. Engineering had not opposed any of the parameters that were placed in this ordinance.

Commissioner Natarajan asked and received the Commission's permission to make her observations concerning the amendment:

- Staff was complimented on the comprehensive report. Mixed use was a change in mindset for future developments. It was a more urban model, would be used in infill sites and should be pedestrian oriented. These developments could not be considered in isolation. Street, streetscape and landscaping standards had to be considered, also, along with build-to lines and FARs appropriate for the particular kind of product. The Benton project was an example of a good, mixed-use development within the City, which addressed all the necessary components.
- Increase of FAR from .3 to .6 was good, but was the .6 a good baseline FAR? It would continue to support surface parking, rather than structure or podium parking.
- Page 8, Policy LU2.37 – Was retail not allowed?

Deputy Planning Director Schwob agreed that it read that way and was almost verbatim from the General Plan. However, a planned district would allow the uses to be varied.

Planner Wun stated that current Office Commercial was limited to office and medical-related uses. The General Plan would have to be amended to allow retail.

Deputy Planning Director Schwob suggested that a planned district would allow that kind of use without amending the General Plan.

- Exhibit A, Page 7 of 16 – Was the level of noise allowed considering restaurant and other noises, especially within the C-B-D?

Planner Wun replied that a specific use would have to be analyzed to determine if it would be compatible to residential, mixed use.

Deputy Planning Director Schwob replied that interior/open space noise levels were addressed in the General Plan. The intent was to allow review of live entertainment in a restaurant, for example.

- Design Criteria – A different way of formatting was recommended: Separate the development standards from the design guidelines and into separate sections to allow for easier reading and understanding.
- Putting the intent before the standards was a good idea. However, it should be shown in bullet form to make it easy to understand

Vice-Chairperson Wieckowski interjected that he believed that new, mixed-use projects should not have to show continuity with the existing structures, since most existing structures in the City were one story. Many urban streetscapes had many heights and designs existing side-by-side.

- Specific language changes were suggested.
- Street frontage could be defined by the build-to line, rather than the buildings being set back.
- It was agreed that a “comfortable walking distance” should be at least one-quarter of a mile, which would not conflict with the C-B-D ordinance.
- Why was “predominately” used when describing depth of commercial tenant spaces?
Deputy Planning Director Schwob replied that some structural issues might be encountered that could impinge upon the depth and “it may not be possible in all circumstances in all locations.”
- Was “higher quality of amenities” been defined elsewhere?
Planner Wun replied that the example following that statement indirectly gave the definition.
A discussion ensued about examples and what “higher quality” would entail.
- Should affordable housing units be counted by units or the square footage of the building?
Deputy Planning Director Schwob suggested either/or, as many units as allowed by the parking restrictions.
- On site and off site parking was discussed. It was agreed that a maximum frontage of parking and/or an aisle depth along the driveway leading to parking that wrapped around the back should be allowed.
- Discussion ensued concerning new open space standards of 500 square feet minimum, along with private open space, which would equal much less than the standard 50 percent open space.
- Another discussion ensued regarding how parking spaces would be counted and if on street parking should be counted toward required parking throughout the City, not just in the mixed use zones.

Commissioner Harrison asked if the joint parking agreement was on building’s title somewhere so that parking spaces were not counted twice when requiring minimum parking.

Deputy Planning Director Schwob replied that the joint use of parking on one site was reviewed to make certain that the mix of uses would allow for joint parking. When a use permit was applied for, because of a change of use, the parking could be reviewed at that time.

Vice-Chairperson Wieckowski stated that he understood that some Bay Area cities had found that the typical parking allocated for affordable housing units was not being used, due to the use of public transportation or due to fewer drivers than typically lived in market rate units. He wondered if the parking requirement should be relaxed even further.

Deputy Planning Director Schwob answered that the code allowed for the reduction of parking requirements for projects in proximity to transit and near amenities and services. An excellent example was The Benton. Residents could walk to Raley’s, the park, transit, two hospitals and, theoretically, their jobs in the office buildings downtown.

Commissioner Harrison agreed with all the suggestions made. He hoped that they would be incorporated into the draft to make a better document. He feared the intent would get lost within the document. He asked if it was possible to create “a preamble.” In his opinion, two sentences summarized the document, which were:

- “The intent of these changes is to encourage and promote well-planned, suitable and appropriate mixed use developments with residential and commercial components in selected commercial districts.”
- “The focus should be allowed on a better mix of use in mixed-use developments, but not to be skew toward residential overwhelming in the commercial areas.”

Deputy Planning Director Schwob agreed that Commissioner Harrison’s suggestion could be used as an introductory statement in the section regarding mixed use.

Commissioner King stated that he found the reading of the draft exhausting. He asked if the prohibited uses in Appendix A, page 7, came from someplace else. He asked if the many precluded businesses were not compatible with a mixed-use development and how was that decided.

Deputy Planning Director Schwob replied that, generally, they came from many of the zoning districts.

Planning Director Meeker stated that the prohibited uses could create an adverse impact upon the residential uses in a mixed-use development that were in close proximity to a commercial use. These included a car wash that had much vehicular activity and associated noise and a hospital that had ambulances arriving and departing.

Commissioner King asked if a citizen had the right to ask the City Council to make an exception to the prohibited uses. He read from B(c), “The development should provide a reasonable transition . . .” and asked who decided what a reasonable transition was.

Deputy Planning Director Schwob stated that either a zoning text amendment or a planned district could be proposed to provide more flexibility. The approving body, usually the Planning Commission, would approve something like that.

Commissioner Sharma asked if a prohibited use could be allowed, if it was not incompatible with the surrounding uses.

Planning Director Meeker agreed that he was correct, as it allowed flexibility for the approving authority to take into consideration the design of the project and the proximity of these uses to the residential portion of the project. The idea was to provide the greatest amount of flexibility, since every possible design solution could not be anticipated.

Commissioners King and Sharma agreed that the draft was well written and seemed to anticipate most eventualities.

Vice-Chairperson Wieckowski asked what a “reverse vending machine” was.

Deputy Planning Director Schwob explained that it was a machine that gave money back for something or other put into it, such as cans or bottles to be recycled.

Commissioner King was not aware of such machines.

Planning Director Meeker clarified that these kinds of machines were typically in supermarkets. When aluminum cans or bottles were put into the machine, a credit voucher was received that could be cashed in; a change machine that would allow bulk change to be inserted and a voucher would be received for redeeming.

Commissioner Lydon also complimented staff for the work put into the draft. The operative word for him was “stimulus” for the City. He asked if the report would come back to the

Commission with the changes. He hoped this body would be a part of the stimulus that he expected would enhance the quality of life within the City.

Planning Director Meeker noted that staff had taken extensive notes of all the comments made by the Commissioners and he anticipated that a revised ordinance that addressed all concerns would come back for review.

Vice-Chairperson Wieckowski asked why there wasn't a three-pronged approach regarding mixed-use approvals in the Central Business District?

Deputy Planning Director Schwob replied that the General Plan required that all projects be processed as planned districts in the Central Business District (C-B-D).

Planner Wun added that it was also required in the C-B-D concept plan.

IT WAS MOVED (HARRISON/KING) AND CARRIED BY THE FOLLOWING VOTE (6-0-0-1-0) THAT THE PLANNING COMMISSION CONTINUE TO MAY 13, 2004, TO ALLOW TIME FOR STAFF TO MAKE THE SUGGESTED CHANGES AND BRING THE REPORT BACK TO THE PLANNING COMMISSION IN FINAL FORM.

The motion carried by the following vote:

AYES:	6 – Harrison, King, Lydon, Natarajan, Sharma, Wieckowski
NOES:	0
ABSTAIN:	0
ABSENT:	1 – Weaver
RECUSE:	0

MISCELLANEOUS ITEMS

Information from Commission and Staff:

- Information from staff: Staff will report on matters of interest.

Planning Director Meeker reported that the City Council:

- Extended the light industrial moratorium for a two-month period to allow time for staff to continue working on it.
 - Approved the Carol Commons project, the ordinance change regarding reasonable accommodations and the Eggers Street rezoning.
 - Continued the amusement arcade ordinance, which would come back to the Planning Commission in the future due to requested changes.
- Information from Commission: Commission members may report on matters of interest.

Commissioner Harrison asked if the Planning Department work program would be available to the Commissioners soon.

Planning Director Meeker replied that it was scheduled to be heard by the City Council on June 8th. It would be provided to the Commission after it was approved.

Deputy Planning Director Schwob stated that the work program typically covered the fiscal year.

Commissioner Sharma thanked the City for sending the new Commissioners to the League of California Cities Convention, as he had learned quite a bit and bought books that should help with Planning Commission deliberations. He mentioned meeting a Planning Commissioner from Redondo Beach who knew Planning Director Meeker.

Commissioner Lydon echoed Commissioner Sharma's comments. However, he was frustrated, because he was not able to attend all the sessions that interested him. His particular interest was traffic calming and he had observed some interesting approaches in the City of Monterey. He announced that a CD would be available to the registrants that could be duplicated for any interested Commissioners.

Planning Director Meeker promised to determine if the CD could be reproduced for interested Commissioners.

Meeting adjourned at 8:20 p.m.

SUBMITTED BY:

Alice Malotte
Recording Clerk

APPROVED BY:

William Meeker, Secretary
Planning Commission